

Message Text

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ACTION EUR-25

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FM AMEMBASSY ROME

TO USIA WASHDC

SECSTATE WASHDC 1200

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USIAC

E.O. 11652: N/A

SUBJECT: PENSION PAYMENT TO FORMER CONTRACT EMPLOYEE

REF: STATE 169905, 208495; ROME 6849

1. EMBASSY IS FACED WITH A SECOND CASE -- SIMILAR TO THAT OF RINALDI IN 1971 (SEE REFTELS) -- OF FORMER USIS CONTRACT EMPLOYEE WHO MAY BRING SUIT AGAINST USG UNLESS SETTLEMENT IS MADE TO PROVIDE HIM WITH PAYMENT IN LIEU OF PENSION. DOMENICO DINOTO WAS UNDER "NON-PERSONAL SERVICES" CONTRACT WITH USIS PALERMO FOR 22 YEARS TO DO CUSTODIAL AND CLEANING WORK ON USIS PREMISES. AS SUCH HE WAS NEVER COVERED BY CIVIL SERVICE RETIREMENT OR LOCAL SOCIAL SECURITY PLAN. HIS CONTRACT WAS NOT RENEWED IN FEBRUARY 1973, WHEN USIS LEFT PREMISES. HE IS NOW 67, HAS NO MEANS OF SUPPORT.

2. IN ATMOSPHERE OF INCREASINGLY STRINGENT LABOR LAWS, CONTRACTS SIMILAR TO THIS HAVE BEEN FOUND IN ITALIAN COURTS TO ESTABLISH AN EMPLOYER-EMPLOYEE RELATIONSHIP, AND TO PLACE UPON EMPLOYER NORMAL RESPONSIBILITIES FOR PROVISION OF SOCIAL BENEFITS.

3. THESE ARE THE PRESENT REALITIES, WHATEVER THE MERITS OF PAST JUDGMENTS THAT MAINTAINED HIS CONTRACT STATUS. DI NOTO CAN NOT ONLY MAKE STRONG LEGAL CASE BUT THE SITUATION RUNS THE RISK OF BECOMING WIDELY KNOWN AND EXPLOITED BY THOSE LOOKING FOR WAYS TO PUT USA IN BAD LIGHT.

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4. WHAT DINOTO IS ASKING IS THAT HE BE GIVEN PENSION COMPARABLE TO WHAT HE WOULD HAVE RECEIVED HAD HE BEEN ON REGULAR PAYROLL. EMBASSY BELIEVES HE WOULD BE WILLING TO SETTLE FOR CASH PAYMENT IN LIEU OF PENSION. WE RECOMMEND, THEREFORE, THAT USIA AUTHORIZE TO HIM LUMP-SUM PAYMENT OF 7,600,000 LIRE (APPROXIMATELY \$13,451) WHICH WOULD BE EQUIVALENT TO LOCAL PENSION OF 700,000 PER YEAR FOR TEN YEARS. THIS IS SIMILAR TO PROCEDURE FOLLOWED IN SETTLEMENT OF RINALDI CASE.

5. DINOTO WILL BE REQUIRED TO SIGN STATEMENT THAT HE RELEASES THE U.S. GOVERNMENT FROM ANY FURTHER CLAIM.

6. AN EARLY RESPONSE IS REQUESTED TO AVOID POTENTIAL UNPLEASANTNESS.
EXEMPT. BEAUDRY

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